IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINETH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 23196 of 2003

Between:

1 S.Purushotham, s/o Venkata Rangaiah
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
2 S.Tirupathi Rao, s/o Venkata Rangaiah
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
3 S. Venkateswarlu, s/o Radhakrishna
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
4 S.Balakrishna, s/o Ramabhadram
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
5 S.Radhakrishnaiah, s/o Tirupathi,
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
6 S.Venkataiah, s/o Tirupathi,
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
7 S.Nityanadha Sriramulu, s/o Chalapathi,
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
8 S.Lakshmipathi Rao, s/o Chalapathi,
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
9 M.Eswaraiah, s/o Chenchaiah
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
10 M.Chenchaiah, s/o Chenchaiah
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
11 S.Chenchamma, s/o Peda Subbarayudu
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
12 S.Ragendra Prasad, s/o S.venkatakrishnaiah
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
13 S.Srinivasa Rao, s/o Chalapathi
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.
14 S.Nagamurali, s/o Venkata Rangaiah
r/o Madhavaram (V), Vontimitta (M), Cuddapah Dist., now r/at Venkatagiri,

V & M, Nellore District.

..... PETITIONERS

AND

1. The Special Deputy Collector & Land Acquisition Officer, Somasila

Project/Telugu Ganga Project, Nellore, Nellore District.
2 The Special Deputy Collector, Land Acquisition Officer, Somasila

Project/Telugu Ganga Project, Rajampet, Cuddapah District.
3 The District Collector, Cuddapah, Cuddapah District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order, or direction more particularly one in the nature of writ of mandamus declaring the in-action of the respondent authorities in not referring the petitioners applications which are filed u/sec.18 of the L.A.Act on 2-11-1986 to the Civil Court/Reference Court is arbitrary, illegal, un-constitutional and violative of Art.21 and 300-A of Constitution of India and contrary to the provisions of L.A.Act, 1894, and consequently direct the respondent authorities to refer the applications of the petitioners
dt.2-11-1986 to the Civil Court/Reference Court forthwith.

Counsel for the Petitioners: MR.G.KRISHNA MURTHY

Counsel for the Respondent Nos.1 to 3: GP FOR LAND ACQUISITION

The Court made the following :

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION NO.23196 OF 2003

ORDER:

All the petitioners herein are owners of lands and houses in Madhavaram village of Vontimitta Mandal of Kadapa District. Their properties were acquired under the Land Acquisition Act, 1894 (the Act, for brevity) for the purpose of construction of Somasila Project/Telugu Ganga Project under Award No.3/86 dated 07.09.1986 and Award No.20/86 dated 30.10.1986. They allegedly made applications on 02.11.1986 to the respondents 1 and 2 requesting to refer the matter under Section 18 of the Act. They also allegedly went on making similar representations, in vain. Therefore, on 03.11.2003, they moved this Court by filing the present writ petition. They prayed for a direction to the respondents to refer the applications of the petitioners dated 02.11.1986 to the Civil Court under Section 18 of the Act.

A counter affidavit is filed by the Special Deputy Collector (LA), SSP Unit IV, Rajampet, Kadapa District opposing the writ petition. The allegation made by the petitioners that they made applications on 02.11.1986 seeking reference under Section 18 of the Act has been denied. The allegation that the Land Acquisition Officer has not fixed fair market value is also denied. It is asserted that the petitioners have not made any representations to the respondents to refer the matter under Section 18 of the Act.

The petitioners have not filed any reply affidavit disputing counter averments. Be that as it is, at the time of hearing, this Court asked
Sri J.Sreenivasa Rao, learned counsel for petitioners, to explain delay and laches in approaching this Court. Be it noted that when two awards were passed on 07.09.1986 and 30.10.1986 and when the petitioners made applications on 02.11.1986, what are the reasons for approaching this Court after abnormal delay of 17 (seventeen) years. The only submission made by the learned counsel for petitioners is that the petitioners went on making repeated representations and therefore they have not approached this Court earlier.

In paragraph 5 of the affidavit accompanying the writ petition, the petitioners stated as under.

It is respectfully submitted that after submitting the above applications in the year 1986 the petitioners made several representations and remainders to the respondent authorities requesting them to refer their applications to the Civil Court/Reference Court. But they did not do so. Ultimately the petitioners have got issued legal notice through their Advocate on 22.12.2002 demanding the respondents to refer their applications which are filed under Sec 18 of the L.A.Act to the Civil Court/Reference Court. In spite of receipt of the said legal notice also the respondent authorities did not take any positive steps to refer their applications to the Civil Court/Reference Court nor pass any orders.

Though a copy of the notice through their Advocate has annexed to the writ petition, “several representations and reminders” allegedly sent by the petitioners to respondent authorities have not been annexed to the writ petition. Even after filing of the counter affidavit, no such steps are taken. Assuming that the petitioners are correct in making the above submission, does it have any effect on the delay and laches? The answer must be in the negative. It is well settled that a person, who

proclaim rights and seeks to enforce through a Court of Law has to necessarily comply with law of limitation, as otherwise the rights would get extinguished. When the delay and laches are generally a ground for not exercising jurisdiction under Article 226 of the Constitution of India, a person approaching this Court with inordinate delay has to explain reasons. A mere allegation that "several representations and reminders" were sent is not a proper answer. A reference may be made to the decision of the Constitution Bench of Seven Judges of the Supreme Court in **S.S.Rathore v State of M.P.,** wherein dealing with the effect of repeated representations, the Supreme Court held as under.

We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months' period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle.

It is proper that the position in such cases should be uniform. Therefore, in every such case until the appeal or representation provided by a law is disposed of, accrual of cause of action for cause of action shall first arise only when the higher authority makes its order on appeal or representation and where such order is not made on the expiry of six months from the date when the appeal was filed or representation was made. **Submission of just a memorial or representation to the Head of the establishment shall not be taken into consideration in the matter of fixing limitation.**

(emphasis supplied)

The petitioners have not properly explained the reasons for approaching this Court with such an inordinate delay. Therefore, this Court is not inclined to exercise its discretion in favour of the petitioners. The writ petition is devoid of merits and is accordingly dismissed.

_____

(V.V.S.RAO,J)

29.10.2004.

pln

To

1. The Special Deputy Collector & Land Acquisition Officer, Somasila Project/Telugu Ganga Project, Nellore, Nellore District.
2 The Special Deputy Collector, Land Acquisition Officer, Somasila

Project/Telugu Ganga Project, Rajampet, Cuddapah District.

3 The District Collector, Cuddapah, Cuddapah District.

4. 2 CCs to the G.P. for Land Acquisition, High Court Buildings, Hyderabad (OUT).

5 2 CD copies.